

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS  
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Public Works	(2) MEETING DATE 1/27/2015	(3) CONTACT/PHONE Don Spagnolo, Transportation Programs Manager (805) 781-4476	
(4) SUBJECT Hearing to consider sidewalk repair assessments of specific properties within the Creekside Ranch Subdivision in accordance with Section 5618 of the Streets and Highway Code, and adopt a resolution confirming report of Superintendent of Streets for sidewalk repairs in the Creekside Ranch and approving Agreements for Release of Lien, Templeton. District 1.			
(5) RECOMMENDED ACTION It is recommended that the Board: <ol style="list-style-type: none"> <li>1. Hold a public hearing to consider the Superintendent of Street report of sidewalk repairs and objections or protests by property owners liable for assessment of reimbursement costs associated with work performed by the Department of Public Work in repairing sidewalks;</li> <li>2. Adopt a resolution accepting as presented or as amended by your Board the Superintendent of Streets report, including; <ol style="list-style-type: none"> <li>a. Agreements for Release of Lien;</li> <li>b. Waiving the assessments for those properties that have signed and returned the Agreements for Release of Lien; and</li> <li>c. Assessing those properties that have not signed and returned the Agreements for Release of Lien.</li> </ol> </li> </ol>			
(6) FUNDING SOURCE(S) N/A	(7) CURRENT YEAR FINANCIAL IMPACT N/A	(8) ANNUAL FINANCIAL IMPACT N/A	(9) BUDGETED? N/A
(10) AGENDA PLACEMENT { } Consent    { } Presentation <b>{X}</b> Hearing (Time Est. <u>30 min.</u> )    { } Board Business (Time Est. <u>    </u> )			
(11) EXECUTED DOCUMENTS <b>{X}</b> Resolutions    { } Contracts    { } Ordinances    { } N/A			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: N/A { } 4/5 Vote Required <b>{X}</b> N/A	
(14) LOCATION MAP Attached	(15) BUSINESS IMPACT STATEMENT? No	(16) AGENDA ITEM HISTORY <b>{X}</b> N/A    Date: <u>                    </u>	
(17) ADMINISTRATIVE OFFICE REVIEW <i>Nikki J. Schmidt</i>			
(18) SUPERVISOR DISTRICT(S) District 1			

Reference:      15JAN27-H-3

## County of San Luis Obispo



TO: Board of Supervisors

FROM: Public Works

Don Spagnolo, Transportation Programs Manager

VIA: Dave Flynn, Deputy Director Public Works

DATE: 1/27/2015

SUBJECT: Hearing to consider sidewalk repair assessments of specific properties within the Creekside Ranch Subdivision in accordance with Section 5618 of the Streets and Highway Code, and adopt a resolution confirming report of Superintendent of Streets for sidewalk repairs in the Creekside Ranch and approving Agreements for Release of Lien, Templeton. District 1.

### **RECOMMENDATION**

It is recommended that the Board:

1. Hold a public hearing to consider the Superintendent of Street report of sidewalk repairs and objections or protests by property owners liable for assessment of reimbursement costs associated with work performed by the Department of Public Work in repairing sidewalks;
2. Adopt a resolution accepting as presented or as amended by your Board the Superintendent of Streets report, including;
  - a. Agreements for Release of Lien;
  - b. Waiving the assessments for those properties that have signed and returned the Agreements for Release of Lien; and
  - c. Assessing those properties that have not signed and returned the Agreements for Release of Lien.

### **DISCUSSION**

One of the elements of any housing development in the County is constructing pedestrian walkways in the form of sidewalks and paths. A common public perception today is that local government agencies are responsible for the maintenance and repair of sidewalks. Although federal law requires

local agencies to ensure safe and clear passage for persons with disabilities through design and rehabilitation guidelines and specifications, California law places the responsibility of maintaining sidewalks on the adjacent property owner.

The maintenance responsibility of sidewalks is governed by Street Improvement Act of 1911 (California Streets and Highway Code § 5600, et. seq.), which in some cases is augmented by Conditions, Covenants and Restrictions (CC&R's) established for the development. The County follows this existing state law that imposes the obligation to maintain sidewalks upon the adjacent property owner.

When sidewalk repairs are necessary, the Streets and Highway Code requires that homeowners be notified their fronting sidewalk is in a state of disrepair and that if the owner does not make the repairs the Superintendent of Streets (Director of Public Works) may undertake the repair work. The notification also states that if the Superintendent of Streets makes the repair, the cost thereof shall be a lien upon their property.

A second notice is then sent to notify each homeowner of the work necessary to repair the sidewalk may include grinding the concrete until the surface is even or removing or replacing sections of concrete walkway. An estimated cost of the repair is included in the second notice.

If the property owner fails to take action and the County performs the necessary repair work then the Streets and Highway Code has a provision that the Superintendent of Streets prepare a report identifying the extent and cost of the repairs and take an action of lien against the property owner. A notification of assessment is sent to the property owner that includes a hearing date set for the legislative body (the Board of Supervisors) to take action. The decision of the Board of Supervisors shall be final and conclusive.

### Creekside Ranch Subdivision

The Creekside Ranch development in Templeton was constructed about 15 years ago with detached sidewalks and parkways with trees. Over time the trees roots began to cause uplift in some of the sidewalk panels. Several years ago, in response to complaints of a potential tripping hazard from homeowners, a small amount of these raised panels were repaired by County road crews; mostly by grinding down the high spots. In 2013, the road crew was again in the process of addressing homeowner requests to repair larger sections of the sidewalks when the work was halted to examine the extent of the work involved in making the repairs.

Several of the homeowners met with County staff to discuss the potential repairs and the maintenance responsibilities of the sidewalk and street trees. As previously stated, the County follows existing state law that imposes the obligation to maintain sidewalks upon the adjacent property owner. In addition, the Creekside Ranch development CC&R's Article 5 also requires the homeowner to maintain the street trees, parkway and sidewalks. Moreover, the existing trees were selected by the developer from a list of eight trees from the Templeton Design Plan and planted as part of the conditions of approval for the development. These issues were discussed at a County sponsored meeting with homeowners in May of last year.

Several property owners had concerns with the street trees which caused the sidewalk disruption and which in their view were mandated by the County. While staff noted this was the developer's choice and covered under the CC&R's, we indicated that a one-time repair of sidewalk costs may be waived if the owner was to acknowledge their future on-going sidewalk repair responsibilities. As a result, the attached Agreement for Release of Lien form has been developed. While this is subject to your Board's approval allowing the liens to be waived, our office feels this is an equitable solution to the current sidewalk condition while not obligating the County to any future repairs.

To date 24 of the 44 affected properties have returned the agreement.

The agreement form releases the County from future responsibility for sidewalk repairs and provides acknowledgement that the property owner will be responsible for all future maintenance and repair of the area between the back of the curb and the right-of-way in accordance with the State Streets and Highway Code and the Creekside Ranch CC&R's. This agreement will be recorded on the property for future property owner reference to these maintenance responsibilities.

Sidewalk repair work was completed by the County and, in accordance with State Law, assessments are being presented to your Board. Public Works is recommending that the assessments be waived for those property owners that have signed and returned the Agreement for Release of Lien.

The proposed sidewalk repair work did not include tree work of any kind. The homeowner was responsible for all work with the trees including, but not limited to, tree removal, tree pruning and planting of new trees. Public Works did provide replacement trees, which have minimally evasive root systems, to those property owners that requested them.

#### Department Procedures Pertaining to Sidewalk Maintenance

As part of the APWA Accreditation program, the department had prepared Public Works Procedural Memorandum M-26 (attached) to document the County's Sidewalk Maintenance Program. The following summarizes the memorandum's salient components:

- Maintenance will remain the responsibility of the fronting property owner in accordance with State Law (California Streets and Highway Code § 5600, et. seq.)
- Public Works will investigate all complaints pertaining to sidewalk conditions on county maintained roads and assess whether repairs are necessary.
- If repairs are required Public Works will send a written *Notice to Repair* to the adjacent property owner, home owners association or responsible utility company.
- An encroachment permit is required when private parties work on public facilities like sidewalks and streets. However, under these circumstances we would waive the permit fee (currently \$325) and not require cash damage bond.
- If the owner fails to repair the sidewalk Public Works would perform the repairs and return back to your Board to assess the property in accordance with Streets and Highway code §5625.

## **OTHER AGENCY INVOLVEMENT/IMPACT**

In 2012, the Sidewalk Maintenance Procedural Memorandum program was presented to each of the County's advisory councils and no concerns were raised. County Counsel has reviewed the agreement to release liens and the attached resolution for adoption.

The County Clerk will record "Agreements for Release of Lien," which will run with the property as an obligation for future owners.

## **FINANCIAL CONSIDERATIONS**

The cost to repair the concrete portion of the sidewalk within the Creekside Ranch Subdivision was \$25,627. Approximately \$3,000 was spent to provide replacement tree saplings for the neighborhood. These costs were funded from the FY 2014-15 Road Fund Maintenance budget.

For any Release of Lien Agreement signed and returned, the property would receive a waiver of the amount listed in Exhibit "A" of the attached resolution.

For property owners not signing a Release of Lien Agreement, the property would be assessed the specific amount listed in Exhibit "A" of the attached resolution. These collections would be billed to 2015 property tax and received in the Road Fund, to offset the concrete repair costs.

No budget adjustment is necessary.

As a result of the Department's Procedural Memorandum, Public Works budgets \$100,000 of the Road Fund to advance sidewalk repair operations. The fund is to be replenished from assessments and augmented as needed annually.

## **RESULTS**

The recommendation is intended to address sidewalk repairs in the Creekside Ranch development in accordance with the California Streets and Highways Code. Sidewalk repair programs are necessary for implementing the Board's goals of having a safe and livable community.

File: Road Nos. 5390,5391,5392,5393, 5394, 5395

Reference: 15JAN27-H-3

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## **ATTACHMENTS**

1. Vicinity Map
2. Streets and Highway Code Section 5610-5618
3. Procedural Memorandum M-26
4. Sample Agreement for Release of Lien
5. Resolution Accepting Agreements for Release of Lien for Sidewalk Repair in the Creekside Ranch